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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/612,481 | 07/01/2003 | Jimmy Lee Long | ITW-14146 | 3481 |
| 7590 06/07/2007 Dennis M. Flaherty, Esq. Ostrager Chong Flaherty & Broitman P.C. 570 Lexington Avenue New York, NY 10022-6894 | | | EXAMINER HARMON, CHRISTOPHER R | |
| | | | ART UNIT 3721 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/612,481

Applicant(s)

LONG, JIMMY LEE

Examiner

Christopher R. Harmon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 14-21 is/are allowed.
- 6) ☐ Claim(s) 2-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence (US 5,275,208) in view of Edwards (US 2,647,014).

Lawrence discloses an assembly comprising tube 21 made of resilient material forming an airtight outer circumferential boundary of a chamber; annular transverse cuts 22 from the inner periphery extending outwardly bounding ring sections integrally formed with the outer portion of tube 21; see figures 1-12.

Lawrence does not directly disclose first and second rotatable end cap assemblies, however the examiner takes OFFICIAL NOTICE that hoses of the type taught by Lawrence are well known in the art to be used with a faucet on one end and a nozzle on the other such as taught by Edwards. The assembled garden hose construction as is well known in the art would thus have end cap assemblies forming end boundaries of the chamber ie. rotatable nut 49 onto the faucet and a rotatable member on the other end for joining the nozzle of Edwards. A fixed structure comprised of outer tube 28 and end couplers form a passageway in fluid communication with the chamber running the length of the hose. It would have been obvious to one of ordinary skill in the art to

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connect end 49 with a faucet and the opposite end (coupler) to a spray nozzle as taught by Edwards in order to provide for a assembly for use in the garden or yard.

Regarding claim 4, the body of the head of Edwards is constructed of rubber molded around bearing 14. Lawrence discloses "coupling 35 can be formed of any suitable material" (column 7, lines 14+). One of ordinary skill in the art could easily look to hard rubber for the construction around a bearing member 42; note that it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 5 and 10 it would have been an obvious design choice to one of ordinary skill in the art to use soft closed cell rubber for the construction of the tube and ultra high molecular weight plastic for bearing rings (threads); see *In re Leshin*; supra.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence (US 5,275,208) in view of Edwards (US 2,647,014) and further view of Dunwoody (US 4,649,954).

The modified invention to Lawrence does not include a hard roller setup however Dunwoody teaches a hard roller setup including rollers 40, 42, 44 for winding up garden hoses like that of Lawrence. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the lawn caddie of Dunwoody for use with the modified invention to Lawrence for forming a nip and winding up the hose length after use.

Allowable Subject Matter

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4. Claims 14-21 are allowed.

Response to Arguments

5. Applicant's arguments filed 4/16/07 have been fully considered but are moot in view of the new ground(s) of rejection. Note that during patent examination, the pending claims must be interpreted as broadly as their terms reasonably allow. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 320,322 (Fed. Cir. 1999). In determining the patentability of claims, the PTO gives claim language its broadest reasonable interpretation" consistent with the specification and claims. *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). See MPEP § 904.1.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

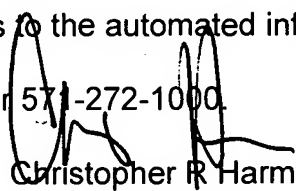
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher R. Harmon
Primary Examiner
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